



*Office of the General Counsel
Freedom of Information and Privacy Act*

June 17, 2011

Jason Smathers
MuckRock
Ref: 619-19772388
185 Beacon St. #3
Somerville, MA 02143

RE: Request Pursuant to the Freedom of Information Act – FOIA #11-074

Dear Mr. Smathers:

This letter is a response to your Freedom of Information Act (FOIA) request dated June 14, 2011, to the Broadcasting Board of Governors (BBG); your request was received by this office on June 15, 2011. In your request, you ask for a copy of the video presentation “In Search of the Constitution - God and the Constitution”, which is part of a series featuring Bill Moyers and produced by the Public Broadcasting Service. The series is still commercially available for purchase from the PBS website, and that particular episode is available on DVD for \$24.95.

Since this office receives a large quantity of requests each year, your request has been assigned **Reference Number 10-047**. You should refer to this number in all future correspondence so that your file can be located in a timely fashion to provide you with the best service possible.

Because the record you seek is protected by US copyright laws, the Agency is required to consider whether it must be protected under FOIA Exemption 4 as a confidential trade secret or commercial information. A key determination in whether or not copyrighted information must be withheld is if releasing it to the public would result in an adverse market effect for the copyright owner. In this case, since the requested record is being sold for approximately \$25, it is clear that the copyright still has commercial value. Further, making copies of that record available to the public at a much lower FOIA rate would clearly have an adverse downward market effect on that value. Therefore, the Agency is compelled to withhold the requested document in its entirety pursuant to Exemption 4 of the FOIA and your request is denied in full.

You have the right to appeal this decision. If you wish to do so, please send your appeal within thirty (30) calendar days from the date of this letter to the Chairperson, Access Appeal Committee, BBG, Suite 3349, 330 Independence Avenue, SW, Washington, DC 20237. Currently, inquiries or appeals are not accepted via e-mail.

Sincerely,

Andrew T. Krog
FOIA and Privacy Act Officer

